



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 18, 2011

Ms. Teresa J. Brown
Sr. Open Records Assistant
City of Plano
P.O. Box 860358
Plano, Texas 75086-0358

OR2011-03779

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 411585 (ORR# PARJ122010).

The Plano Police Department (the "department") received a request for records and video recordings pertaining to the arrest of a named individual, records pertaining to calls for service involving the named individual for a specified time period, and records pertaining to calls for service to a specified address for a specified time period. You state the department will withhold some of the requested information based upon a previous determination for withholding information under section 552.108(a)(1) of the Government Code granted by the ruling in *Office of the Attorney General v. Plano Police Department*, No. GV-001919 (126th Dist. Ct., Travis County, Tex., December 18, 2000). You also state you have released basic "front page information" to the requestor. See Gov't Code § 552.108(c) (stating basic information about arrested person, arrest, or crime may not be withheld under section 552.108); Open Records No. 127 (1976) (summarizing types of information considered to be basic information). You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.

We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note the information submitted as Exhibit C was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2011-03387 (2011). In that decision, this office determined the requested information must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. As we have no indication the law, facts, or circumstances on which the prior ruling was based have changed, the department must continue to rely on Open Records Letter No. 2011-03387 as a previous determination and withhold Exhibit C in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we will address your argument for Exhibit B, which was not the subject of the previous determination.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that release of the information in Exhibit B would interfere with a pending criminal case. Based on your representation, we conclude section 552.108(a)(1) is generally applicable in this instance. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note, however, the information at issue includes two statutory warnings and a notice of suspension. Because copies of these documents were provided to the person who is the subject of the warning and suspension, we find that the release of the statutory warnings and the notice of suspension will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the department may not withhold the statutory warnings or notice of suspension under section 552.108(a)(1).

¹We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

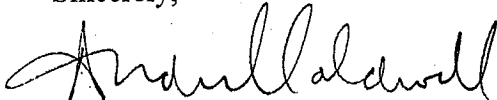
We note the statutory warnings and notice of suspension contain a Texas driver's license number. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state.² *See id.* § 552.130(a)(1). The Texas driver's license number have marked must be withheld from the requestor under section 552.130.³ The remaining information in the statutory warnings and notice of suspension must be released.

In summary, the department must continue to rely on Open Records Decision No. 2011-03387 as a previous determination and withhold Exhibit C in accordance with that ruling. With the exception of the Texas driver's license number we have marked under section 552.130 of the Government Code, the department must release the statutory warnings and the notice of suspension. The department may withhold the remaining information in Exhibit B under section 552.108(a)(1) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell
Assistant Attorney General
Open Records Division

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²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 411585

Enc. Submitted documents

c: Requestor
(w/o enclosures)